

These are the tentative rulings for civil law and motion matters set for Thursday, June 25, 2015, at 8:30 a.m. in the Placer County Superior Court. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by 4:00 p.m. today, Wednesday, June 24, 2015. Notice of request for oral argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.

NOTE: Effective July 1, 2014, all telephone appearances will be governed by Local Rule 20.8. More information is available at the court's website, www.placer.courts.ca.gov.

EXCEPT AS OTHERWISE NOTED, THESE TENTATIVE RULINGS ARE ISSUED BY COMMISSIONER MICHAEL A. JACQUES AND IF ORAL ARGUMENT IS REQUESTED, ORAL ARGUMENT WILL BE HEARD IN DEPARTMENT 40, LOCATED AT 10820 JUSTICE CENTER DRIVE, ROSEVILLE, CALIFORNIA.

1. M-CV-0059499 Provident Credit Union vs. Horton, Gary R., et al

Plaintiff's motion for summary judgment, or in the alternative, summary adjudication, is continued to August 20, 2015 at 8:30 a.m. in Department 40. This matter is set for a case management conference on August 20, 2015 at 11:00 a.m. in Department 40.

2. M-CV-0060526 Atkinson, Mary Catherine vs City of Lincoln, et al

Defendant City of Lincoln's motion to compel discovery responses is granted. Plaintiff Mary Atkinson shall provide verified responses and responsive documents, without objections, on or before June 30, 2015. Sanctions are denied because the motion was not opposed. (CCP§2030.290(c); 2031.300(c).) However, repeated conduct of failing to comply with discovery obligations may lead the Court to find an abuse of the discovery process and award sanctions on that basis. (*Laguna Auto Body v. Farmers Ins. Exchange* (1991) 231 Cal.App.3d 481, overruled on other grounds in *Garcia v. McCutchen* (1997) 16 Cal.4th 469, 478, fn. 4.)

3. M-CV-0061028 Cota Cole LLP vs. Perrotta, Charles

Karen M. Goodman's motion to be relieved as counsel for defendants Charles Perrota and Charlotte Van Warmerdam-Perrota is granted and she shall be relieved as counsel of record effective upon the filing of the proof of service of the signed order upon defendants.

4. M-CV-0062776 State Farm Mutual Auto Ins. Co. vs. Hazen, Joseph M.

Plaintiff's motion to deem request for admissions admitted is granted. The matters encompassed in plaintiff's request for admissions, set one are deemed admitted. Sanctions in the amount of \$400.00 are imposed on the defendant Joseph Hazen pursuant to CCP§2033.280(c).

5. M-CV-0062864 Federal National Mortgage Ass'n vs. Ventura, Christopher

The motion to compel discovery is dropped from the calendar as no moving papers have been filed with the court.

6. M-CV-0063472 VonBergen, William vs. Sheridan, Linda

The motion to confirm arbitration is dropped from the calendar at the request of the moving party.

7. M-CV-0063527 Adora Communities LLC vs. Oates, Phyllis A., et al

The appearances of the parties are required on the application for stay of writ of execution. As previously ordered, defendant must provide timely proof of service of the court's June 22, 2015, order, or relief will be denied.

8. M-CV-0063528 Skipper, Lorel-Lei - In Re the Petition of

This tentative ruling is issued by the Honorable Michael W. Jones. If oral argument is requested, such argument shall be heard in Department 43:

The petition for Minor's Compromise is granted. After careful consideration of the petition, supporting attachments, and declaration of David Yeremian, the court finds that the settlement is in the best interest of the minor. (Probate C§§2504, 3500; CCP§372; *Pearson v. Superior Court (Nicholson)* (2012) 202 Cal.App.4th 1333, 1337.) If oral argument is requested, the appearance of the minor at the hearing is waived.

9. S-CV-0025406 Krolick, John M. vs. Formula Boats, et al

The motion for sanctions is dropped from the calendar as no moving papers were filed with the court.

10. S-CV-0031742 Tarantino, Alessandra Gabriella vs. Sheehy, A. Macduff

The motion for cost of proof sanctions is continued, on the court's own motion, to July 2, 2015 at 8:30 a.m. in Department 43 to be heard by the Honorable Michael W. Jones.

11. S-CV-0033610 Shaw, Cynthia, et al vs. Henevald, Edward H., M.D., et al

The petition for compromise of disabled person's claim is granted. If oral argument is requested, the appearance of Elizabeth Shaw at the hearing is waived.

12. S-CV-0033922 Kruzic, Shannon vs. Ocwen Loan Servicing, LLC, et al

Plaintiff's motion for leave to amend to file a second amended complaint is denied. The court may permit a party to amend its operative pleading in the furtherance of justice and on such terms as may be just. (*Code of Civil Procedure section 473(a)(1); Code of Civil Procedure section 576.*) The moving party must comply with the requirements of CRC Rule 3.1324 when bringing a motion seeking leave to amend a pleading. The moving party must also show that the amendment will not prejudice any opposing party. (*Douglas v. Superior Court (1989) 215 Cal.App.3d 155, 158.*) In this instance, plaintiff has failed to comply with either requirement. The court is unable to discern the amendments that are proposed in the second amended complaint nor is the court able to assess whether such unidentified amendments are necessary and proper as plaintiff fails to submit a sufficient declaration to support her request. Moreover, plaintiff simply provides conclusory statements instead of making a sufficient showing that the amendment will not prejudice the opposing parties. To the contrary, plaintiff seems to acknowledge that an amendment to the complaint at this juncture will require a trial continuance. It is noted that plaintiff makes an internal request to merely vacate the trial dates without addressing the requirements of CRC Rule 3.1332. Plaintiff also fails to address how the amendment will impact the impending motion for summary judgment and how this may prejudice defendants. For all of these reasons, the motion is denied.

13. S-CV-0034586 Epic HR, Inc. vs. Alves, Steven G.

The demurrer, motion for leave to file a cross-complaint, and motion for return of legal files are continued, on the court's own motion, to June 30, 2015 at 8:30 a.m. in Department 40 to be heard in conjunction with the several pending discovery motions.

14. S-CV-0035262 Piatti Restaurant Company, L.P. vs. Andoria, LLC

Plaintiff's Motion for Entry of Stipulated Judgment

On June 18, 2015, the court continued the motion to afford defendant additional time to respond to plaintiff's supplemental briefing in light of its assertions that the briefing was not timely served. Although afforded the opportunity to submit further briefing, defendant failed to do so. After careful consideration of the moving papers, opposition, and supplemental briefing, the court grants the motion.

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15. S-CV-0035638 Poroshina, Natalia vs. Shellpoint Mortgage Servicing, et al

The demurrer to the first amended complaint is continued, on the court's own motion, to July 9, 2015 at 8:30 a.m. in Department 43 to be heard by the Honorable Michael W. Jones.

16. S-CV-0035650 Pacific Gas and Electric Co. vs. Previte, Jack, Trustee

The motion for prejudgment possession is continued, on the court's own motion, to July 9, 2015 at 8:30 a.m. in Department 43 to be heard by the Honorable Michael W. Jones.

17. S-CV-0035652 Pacific Gas and Electric Co. vs. Baseline 80 Investors, LLC

The motion for prejudgment possession is continued, on the court's own motion, to July 9, 2015 at 8:30 a.m. in Department 43 to be heard by the Honorable Michael W. Jones.

18. S-CV-0035776 Wilkins, Phyllis vs. Bank of America, et al

Defendant Bank of America's Demurrer to the Complaint

Ruling on Request for Judicial Notice

Defendant's request for judicial notice is granted.

Ruling on Demurrer

Defendant's demurrer is sustained with leave to amend. A demurrer tests the legal sufficiency of the pleadings, not the truth of the plaintiff's allegations or accuracy of the described conduct. (*Picton v. Anderson Union High School* (1996) 50 Cal.App.4th 726, 733.) As such, all properly pled facts are assumed to be true as well as those that are judicially noticeable. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; *Gomes v. Countrywide Home Loans, Inc.* (2011) 192 Cal.App.4th 1149, 1153.) Defendant challenges all four causes of action. Plaintiff concedes the complaint is inartfully pled and the court agrees. A review of the complaint, even when it is read as a whole, reveals that each cause of action is deficient. The allegations simply too vague and conclusory to support the claims alleged in the complaint.

Plaintiff shall file and serve the first amended complaint on or before July 2, 2015

19. S-CV-0035966 Martinez, Kathleen vs. Calderon, Jesseca Marie Terrado

Defendant's motion for attorney's fees is granted pursuant to CCP§527.6(r). Defendant is awarded \$2,210.00 in attorney's fees.

20. S-CV-0036006 Cramer, Robert Glen, Trustee, etal vs. Wells Fargo Bank N.A.

Defendant T.D. Service Company's Demurrer to the Complaint

Ruling on Request for Judicial Notice

Defendant's request for judicial notice is granted.

Ruling on Demurrer

Defendant's demurrer is sustained with leave to amend. A demurrer tests the legal sufficiency of the pleadings, not the truth of the plaintiff's allegations or accuracy of the described conduct. (*Picton v. Anderson Union High School* (1996) 50 Cal.App.4th 726, 733.) As such, all properly pled facts are assumed to be true as well as those that are judicially noticeable. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; *Gomes v. Countrywide Home Loans, Inc.* (2011) 192 Cal.App.4th 1149, 1153.) A review of the complaint, even when it is read as a whole, reveals that each cause of action is deficient. The allegations simply too vague and legal claims insufficiently identified to support a valid cause of action.

Plaintiff shall file and serve the first amended complaint on or before July 2, 2015.

Defendant Wells Fargo Bank's Demurrer to the Complaint

Ruling on Request for Judicial Notice

Defendant's request for judicial notice is granted.

Ruling on Demurrer

Defendant's demurrer is sustained with leave to amend. A demurrer tests the legal sufficiency of the pleadings, not the truth of the plaintiff's allegations or accuracy of the described conduct. (*Picton v. Anderson Union High School* (1996) 50 Cal.App.4th 726, 733.) As such, all properly pled facts are assumed to be true as well as those that are judicially noticeable. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; *Gomes v. Countrywide Home Loans, Inc.* (2011) 192 Cal.App.4th 1149, 1153.) A review of the complaint, even when it is read as a whole, reveals that each cause of action is deficient. The allegations simply too vague and legal claims insufficiently identified to support a valid cause of action.

Plaintiff shall file and serve the first amended complaint on or before July 2, 2015.

The demurrer is continued, on the court's own motion, to July 9, 2015 at 8:30 a.m. in Department 40.

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